

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel. W.A. DREW)	
EDMONDSON, in his capacity as ATTORNEY)	
GENERAL OF THE STATE OF OKLAHOMA)	
and OKLAHOMA SECRETARY OF THE)	
ENVIRONMENT J.D. STRONG, in his capacity)	Case No. 05-CV-329-GKF-SAJ
as the TRUSTEE FOR NATURAL)	
RESOURCES FOR THE STATE OF)	
OKLAHOMA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
TYSON FOODS, INC., INC., TYSON)	
POULTRY, INC., TYSON CHICKEN, INC.,)	
COBB- VANTRESS, INC., AVIAGEN, INC.,)	
CAL-MAINE FOODS, INC., CAL-MAINE)	
FARMS, INC., CARGILL, INC., CARGILL)	
TURKEY PRODUCTION, LLC, GEORGE'S,)	
INC., GEORGE'S FARMS, INC., PETERSON)	
FARMS, INC., SIMMONS FOODS, INC., and)	
WILLOW BROOK FOODS, INC.,)	
)	
Defendants.)	

ORDER¹

Comes on for decision Defendants' Joint Motion for Clarification of Court's October 28, 2008 Order [Dkt. #1789]. Having considered the arguments and authorities presented, the court finds hearing is not necessary.

Defendants urge the court did not address all issues raised in Defendants' Joint

¹State of Oklahoma ("Plaintiff/State"), is occasionally referenced in the filings in the plural. The Court will refer to Plaintiff in the singular unless directly citing from a filed pleading.

Motion to Enforce Scheduling Orders In Light of Plaintiffs' Expert Disclosure Abuses in the order entered on October 28, 2008. Defendants seek limited clarification as to when certain expert reports are to be filed.

In the October 28 order, the court extended the date by which general expert defense reports are to be filed from October 14, 2008 to December 1, 2008. It was the court's intent to require expert reports for which staggered filing dates had been entered following the December 1, 2008 date to remain as ordered, beginning with Dr. Bierman's report on December 12, 2008 and staggered thereafter through December, 2008. One final expert report was extended to May 30, 2009. Defendants announced at hearing that the May date could remain as previously ordered.

Upon review, the court finds requiring Defendants' experts to respond within a matter of weeks would create unfair prejudice under the circumstances. As Defendants urge, this is not a typical case in which experts for each side are symmetrically matched by subject/topic. Errata and considered materials submitted for Plaintiff's expert reports, particularly the Engle report, created a domino effect, first with other Plaintiff's experts whose reports relied upon Dr. Engle's report and who consequently were required to submit their own errata, and then with the defense experts who had begun the task of reviewing and analyzing Plaintiff's expert reports and the errata that followed. In many instances, experts on both sides were forced to go back to square one as errata were received.

At hearing, Defendants sought extension through February, 2009 for expert reports due to be submitted under the staggered December, 2008 schedule. However, in motion now before the court, Defendants have shortened the extensions sought. The court finds the shortened schedule to be reasonable.

Accordingly, the court finds expert deadlines are extended as follow:

Modeling and other fate-and-transport (causation) experts, including Dr. Bierman	January 23, 2009
Drinking Water Quality and Erosion, including Michael McGuire and Wayne Grip (in part)	January 26, 2009
Aquatic ecology and Limnology, including Tom Ginn (in part)	January 30, 2009
Experts Sullivan, Horne, Connolly, and initial report of Chadwick	January 30, 2009

IT IS SO ORDERED THIS 21st DAY OF NOVEMBER, 2008.


Sam A. Joyner
United States Magistrate Judge